

55 New

**COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. §§ 1983**

**FILED**

JAN 31 2008

RICHARD W. WYKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Name NEALE, JR., JOSEPH L.  
(Last) (First) (Initial)

Prisoner Number TO8899

Institutional Address CSP-CORCORAN, 4001 KING AVE., P.O. BOX 8800, CORCORAN, CA 93212-8309. [I AM ENDORSED TO BE TRANSFERRED TO THE CALIFORNIA MEDICAL FACILITY-(CMF-III). SEE ATTACHED CDC-128-G]

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**MHP**

JOSEPH L. NEALE, JR  
(Enter the full name of plaintiff in this action.)

**CV 08 0755**

vs.

Case No. 0755  
(To be provided by the clerk of court)

ROBERT HOREL, WARDEN, PBSP  
TIMOTHY MCCARTHY, DIRECTOR OF  
MENTAL HEALTH DEP., PBSP

**COMPLAINT UNDER THE  
CIVIL RIGHTS ACT,  
42 U.S.C. §§ 1983**

**(PR)**

CDCR  
(Enter the full name of the defendant(s) in this action)

**E-filing**

[All questions on this complaint form must be answered in order for your action to proceed..]

I. Exhaustion of Administrative Remedies

[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]

A. Place of present confinement CSP-CORCORAN

B. Is there a grievance procedure in this institution?

YES ☒ NO ( )

C. Did you present the facts in your complaint for review through the grievance procedure?

YES ☒ NO ( )

D. If your answer is YES, list the appeal number and the date and result of the appeal at

COMPLAINT

08-205 MHP

each level of review. If you did not pursue a certain level of appeal, explain why.

1. Informal appeal MY 602 APPEAL WAS SUBMITTED ON 3/30/07. THE  
INFORMAL LEVEL WAS BYPASSED AND LOG# PBSP-A-07-00985  
WAS ASSIGNED BY APPEALS COORDINATOR WILBER, CJT
2. First formal level APPEAL LOG# PBSP-A-07-00985 WAS COMBINED  
WITH LOG# PBSP-A-07-00065 AT THIS LEVEL AND DENIED IN THE  
FIRST LEVEL RESPONSE DATED 6/1/07
3. Second formal level THE APPEAL WAS DENIED AT THE WARDEN'S  
LEVEL IN A SECOND LEVEL DECISION DATED 8/22/07
4. Third formal level THE APPEAL WAS DENIED IN A  
DIRECTOR'S LEVEL APPEAL DECISION DATED 12/11/07

E. Is the last level to which you appealed the highest level of appeal available to you?

YES ☒ NO ( )

F. If you did not present your claim for review through the grievance procedure, explain

why. N/A

## II. Parties

A. Write your name and your present address. Do the same for additional plaintiffs, if any.

JOSEPH L. NEALE, JR.; 708899; CSP-CORCORAN; 4001 KING AVENUE;  
P.O. BOX 8800; CORCORAN, CA 93212-8309. [I AM ENDORSED TO BE  
TRANSFERRED TO THE CALIFORNIA MEDICAL FACILITY (CMF-III).  
SEE THE ATTACHED CDC 12P-G]

B. Write the full name of each defendant, his or her official position, and his or her place of employment.

ROBERT HOREL, WARDEN, PELICAN BAY STATE PRISON  
TIMOTHY MCCARTHY, DIRECTOR, MENTAL HEALTH DEPARTMENT, PBSP

CALIFORNIA DEPARTMENT OF CORRECTIONS AND  
REHABILITATION

III. Statement of Claim

State here as briefly as possible the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph. On 10/26/06 Ricky Harris, my cellmate, was transferred to San Quentin State Prison to attend a civil trial at the USDC in San Francisco. When he returned to PBSP on 11/13/06, his psychotropic meds were allowed to lapse for at least 3 months which triggered his psychotic behavior that resulted in him attacking and assaulting me. On 2/26/07 i/m Harris became my cellie again and began acting in a very disturbing manner. On a number of occasions he would walk to the cell door and without provocation yell, "Attention on the tier. If anyone in this section has anything to say to me, say it to my face. My name is Ricky Harris and I'm in cell 132." Subsequently, he told me that his meds were never restored when he returned to PBSP more than 3 months ago. It was 2 days later on 2/28/07 at about 0400 that he went into a psychotic rage and brutally assaulted me. It is my contention that Warden Horel and Dr. McCarthy engaged in gross neglect on the prison's part for failing to properly institute and implement procedures that insure that psychotropic medications are appropriately restored to all mentally ill i/ms in a timely manner upon their return to PBSP. This kind of gross neglect and irresponsibility is a serious problem that needs to be addressed throughout CDCR, because during my transfer to CSP-Corcoran in June, 2007, my psychotropic medications were allowed to lapse, as well, for weeks both at CSP-Corcoran and during my two week layover at CSP-Sacramento. Just like i/m Harris, I could have suffered a psychotic episode during that time and assaulted my cellmate.

IV. Relief

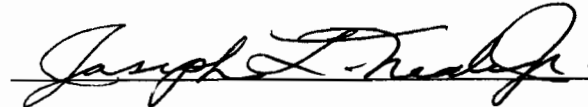
Your complaint cannot go forward unless you request specific relief. State briefly exactly what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

- 1) I am requesting the court to order all prison authorities within CDCR to restore vitally important psychotropic medications promptly upon receiving a mentally ill inmate at their prison; and not to assign a mentally ill i/m to cell with another i/m if his meds have not been restored; and
- 2) that I be awarded \$50,000.00 in discretionary damages for psychological and physical pain and

1 suffering, as well as infliction of emotional distress.  
2  
3

4 I declare under penalty of perjury that the foregoing is true and correct.  
5

6 Signed this 17 day of JANUARY, 20 08  
7

8   
9 (Plaintiff's signature)  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

State of California

Department of Corrections  
CDC 128-G

No. T-08899

NAME: NEALE

*Comment:* CMF-III endorsed. CS = 31.

Previous CSR endorsement is reaffirmed. LIFE Prisoner Status is noted. Next BPT hearing currently scheduled for 05/23/26. Inmate requires CCCMS level of MHSDS care. CDC 128-C of 6-20-07 is noted. DPM placement is noted. Inmate is NCF per CDC 128-C2 of 2-22-01. Violent history noted (VIO). TB Code is 32. CDC 812 is noted. Confidential file is clear.

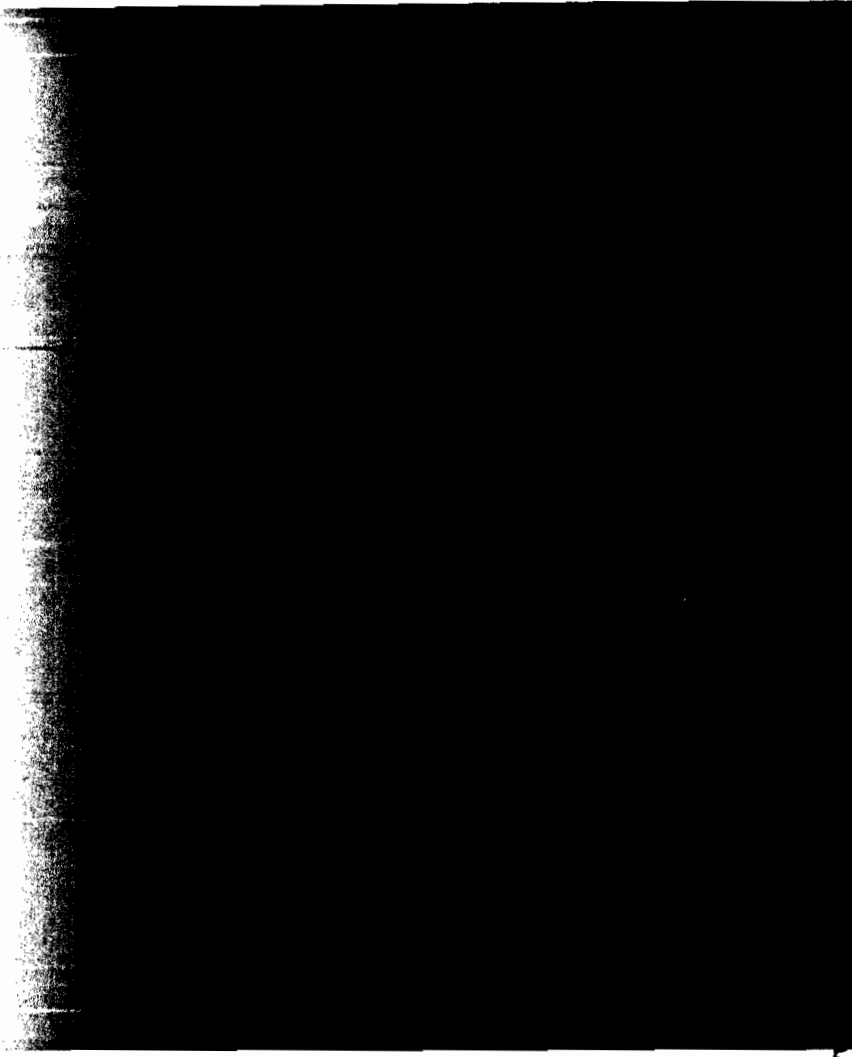
This transfer approval expires 4/17/2008 and will require return to CSR for re-authorization.

*V. Garcia*  
V. Garcia, CSR

Date: 12/19/2007

Classification - CSR ACTION

COR



JOSEPH WEALE, JR

TO8899

CSP-CORCORAN

3802-120L

P.O. BOX 3466

CORCORAN, CA

93212-3466

CLE  
U.S.  
NORT  
450  
BOX  
SAN

LEGAL MAIL

K  
DISTRICT COURT  
ERN DISTRICT OF CALIFORNIA  
GOLDEN GATE AVENUE  
36060  
RANCISCO, CA 94102

*le*  
**RECEIVED**  
JAN 2 9 2008  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

